

## **REMARKS**

This Amendment is presented in response to the Examiner's Office Action mailed January 16, 2004 (the "Office Action"). By this paper, claims 1-3, 9, 30, 35, 41-46, and 48 are canceled, and claims 4, 5, 7, 8, 10-13, 15, 16, 18-26, 28, 29, 31-34, and 36-40 are amended. Claims 4, 5, 7, 8, 10-29, 31-34, 36-40, and 47 are now pending in the application as a result of the aforementioned cancellations. Reconsideration of this application is respectfully requested in view of the foregoing amendments to the claims and the following remarks.

### **I. Claim Rejections**

The Examiner has rejected claims 1-5 and 7-48 based upon 35 U.S.C. § 112, second paragraph, and/or upon 35 U.S.C. § 102(b). However, the Examiner has indicated that "Claim 22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this action." The Examiner has also indicated that "Claims 4, 8, 10, 15-19, 23-34, 36 and 38-40 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this action and to include all of the limitations of the base claim and any intervening claims."

Accordingly, Applicant has: amended claim 4 to include the limitations of base claim 1; amended claim 10 to include the limitations of base claim 9; and, amended claim 36 to include the limitations of base claim 35. In addition, Applicant has amended claim 22 to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in the Office Action. Because all of the remaining dependent claims have been amended, to the extent necessary, to depend from

one of amended claims 4, 10, 22 or 36, Applicant respectfully submits that all of the pending claims are now in condition for allowance.

## **II. Rewriting Claims Objected To**

As noted above, the Examiner has objected to claims 4, 8, 10, 15-19, 23-34, 36 and 38-40 as being dependent on a rejected base claim, but has indicated that such claims would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

In connection with the foregoing, Applicant respectfully notes that such an objection, by definition, concerns only the form of the claim(s) (as distinguished from the substance of the claim) with respect to which the objection has been posed. *See* Manual of Patent Examining Procedure §§ 706.01, 608.01(n) (emphasis added). Thus, simply rewriting a dependent claim in the manner suggested by the Examiner constitutes only a change to the format of the claim and, without more, has no effect with regard to the substance of the rewritten claim.

Accordingly, to the extent that Applicant has amended the pending claims simply to include limitations of a base claim, Applicant has made no material changes to the substance of the claim thus amended.

## **III. Cited Prior Art**

Applicant notes that the claim amendments herein have been made merely to clarify the claimed embodiments from elements of the cited prior art references. These claim amendments should not be construed as an acquiescence, on the part of the Applicant, as to the purported teachings or prior art status of the cited references, nor as to the characterization of the cited

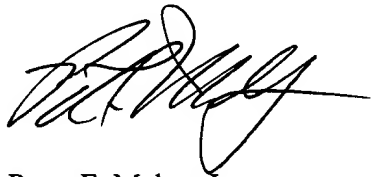
references advanced by the Examiner. Accordingly, Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

### **CONCLUSION**

In view of the remarks and amendments submitted herein, Applicant respectfully submits that each of the pending claims 4, 5, 7, 8, 10-29, 31-34, 36-40, and 47 is now in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of such claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 16<sup>th</sup> day of March, 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter F. Malen, Jr.', with a stylized, cursive script.

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